



Resource List: Working More Effectively with Law Enforcement to Obtain U visa Certifications¹

Last Updated March 30, 2015

National Resources:

Below are national resources, including webpages dedicated to U visa certification issues. The links are either (1) URLs that will connect you to the resource on the internet or (2) hyperlinks that connect you to the resource located at the bottom of this document.

1. [DHS Certification Guide](#): Department of Homeland Security Certification Guide

In December 2011, the Department of Homeland Security published this guide to help law enforcement agencies understand their role in signing Form I-918 Supplement B, the U visa certification form. This 19-page guide has proven invaluable in encouraging law enforcement to sign certifications under many of the statutory categories that are difficult for advocates to explain. Further, at the end of the guide, DHS provided contact information for certifiers to obtain more information about the U visa program.

2. [The Political Geography of the U Visa: Eligibility as a Matter of Locale](#): The University of North Carolina School of Law Immigration/Human Rights Policy Clinic and ASISTA

The UNC School of Law's Immigration/Human Rights Policy Clinic along with ASISTA released this report in June 2014. This 146 page report provides detailed analysis on how the U visa certification process is hyper-dependent on the geographic location where a crime occurs. The report evaluates certification data, presents legal policy implications, provides excellent recommendations, and suggests advocacy strategies, including congressional action, administrative and regulatory approaches, and litigation strategies.

3. [ICWC U Visa Travel and Certifier Database](#): National data-sharing resource managed by the Immigration Center for Women and Children (ICWC)

Join more than 700 advocates nationwide on the ICWC U Travel and Certifier Database. Formerly hosted by Google Docs, the new host for the database is called Zoho Creator. The beauty of this resource is that all members can simultaneously edit and view the information. Due to the collaborative nature, the information is only as accurate as its participating members make it.

¹ These resources were collected and are now presented by the American Immigration Lawyers Association (AILA)'s VAWA-U-T Committee, in collaboration with ASISTA.

4. [Winning U Visas: Getting the Law Enforcement Certification](#)

Gail Pendleton, co-director of ASISTA, co-authored this article, published by LexisNexis in February 2008. Still relevant years later, this article provides background on the U visa, legal citations, and best practices for working with law enforcement to obtain a U visa certification. Includes especially useful tips on how to build trust with law enforcement when you must venture outside the traditional lawyering model.

5. [U Visa Certification Tool Kit for Federal, State and Local Judges and Magistrates](#)

This toolkit, provided by the National Immigrant Women's Advocacy Project (NIWAP), hosts a breadth of helpful information for advocates wanting to draft a U visa protocol. There is also guidance for judges who may consider signing a U visa certification.

6. [U Visa Basics for Law Enforcement](#)

This is an excellent, succinct two-page resource, published by the Immigrant Legal Resource Center (ILRC). The document provides answers to law enforcement's frequently asked questions.

7. [Department of Labor U Visa Process and Protocols, Questions – Answers](#)

On April 28, 2011, the U.S. Department of Labor announced its participation in the U visa program. The Wage and Hour Division's regional administrators, located in five U.S. cities, have implemented a procedure for accepting and reviewing U visa certifications. You can cross-check and update the regional contacts for the DOL through federal certifiers section on the [ICWC U Visa Travel and Certifier Database](#).

On November 20, 2014, the Obama administration included two important changes for victims of crime in the workplace and trafficking as part of its administrative reform. It expanded the DOL's U visa certification protocol to include three additional qualifying criminal activities and allowed for DOL certification for T visas. The administration has also established an interagency task force to protect immigrant workers from employers who exploit their immigration status when they seek to exercise their workplace rights. The DOL posted a [fact sheet](#), specifying that these changes would be enacted in 2015.

8. [National Labor Relations Board \(NLRB\) Memo: Updated Procedures in Addressing Immigration Status Issues that Arise During Unfair Labor Practice Proceedings](#), issued on February 27, 2015

The NLRB Office of General Counsel released a memorandum updating and supplementing its procedures when immigration status issues are raised during NLRB investigations and proceedings. The memorandum instructs regional offices to consult NLRB operations-management to determine the possibility for a U or T visa; report to the DOJ's Office of Special Counsel to determine if immigration-related unfair employment practices have occurred; and engage with the DHS to inquire about prosecutorial discretion.

9. [Law Enforcement's Role in U Visa Certification](#): June 2009 Immigration Law Bulletin by Sejal Zota at the University of North Carolina's School of Government

This is a useful description of the certification process by a uniquely situated School within a public university. Established in 1931 as the Institute of Government, the School provides educational, advisory, and research services for state and local governments. The mission of the School of Government is to improve the lives of North Carolinians by engaging in practical scholarship that helps public officials and citizens understand and improve state and local government. This six-page document, in question and answer style format, can be used as an additional tool when approaching law enforcement to help inform them of their role in signing certifications for U visas.

Local Resources:

Below find resources from local law enforcement agencies, including webpages dedicated to the U visa and certification policies, which are organized by state. The links are either (1) URLs that will connect you to the resource on the internet or (2) hyperlinks that connect you to the resource in the bottom of this document.

ARIZONA

1. Tucson - [Pima County DA Policy](#)

CALIFORNIA

1. California Department of Fair Employment and Housing (CA DFEH) – [Directive on U visa certification, updated September 10, 2014](#)
2. Castro Valley - [East Bay Regional Park District Police Department Brochure](#)
3. Contra Costa County – [Contra Costa County DA Policy](#)
4. Los Angeles
 - a. [LA City Attorney's Office Q&A and Procedures](#)
 - b. [LA DA website](#)
 - c. [LA PD Special Order, updated May 23, 2014](#)
 - d. [LA SD Field Operations Directive](#)
5. Oakland
 - a. [Oakland PD website](#)
 - b. [Oakland City Council Report and Resolution](#)
6. Sacramento – [Sacramento DA Policy](#)
7. San Francisco
 - a. [San Francisco Sheriff's Department Inter-Office Correspondence Re. U Visa](#)
 - b. [San Francisco DA: Support for Inadmissibility Waivers](#)
 - c. [San Francisco DA: Support for Robbery as Qualifying Criminal Activity](#)
8. San Mateo – [San Mateo County DA Policy](#)

COLORADO

9. Denver – [Denver DA Policy](#)

NEW YORK

10. New York

- a. [New York Administration for Child Services Policy, with Addendum](#)
- b. [New York PD Policy](#)

OREGON

11. Portland – [Multnomah County DA Policy](#)

RHODE ISLAND

12. Providence – [Providence PD Policy](#)

TEXAS

13. Austin – [Austin PD Policy](#)

14. Dallas – [Dallas PD Policy](#)

WASHINGTON

15. Seattle – [King County SD Policy](#)

Hyperlink Appendix

1. Pima County District Attorney's Office Policy (AZ)

Hello,

We do not have a written policy regarding U Visa Certification. Rather, we consider each request for certification on an individual basis as it is presented to our office. We check, as a factual matter, whether the crime victim seeking the certification has cooperated with law enforcement and with our office in connection with the prosecution. If there has been cooperation, we so certify. If not, we decline. The supervising attorney of our Domestic Violence Unit is the one who has been delegated the authority and responsibility for responding to U Visa Certification requests.

We receive many applications from crime victims represented by Southern Arizona Legal Aid (SALA), which is an excellent organization. Mary Day is the attorney at SALA who assists crime victims with their requests for certifications. She does a nice job of presenting the requests.

Feel free to contact me if you have any further questions.

Amelia Cramer



2. Contra Costa County District Attorney's Office Policy (CA)



OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Mark A. Peterson
DISTRICT ATTORNEY

U-VISA CERTIFICATION REQUIREMENTS

The following is the U-Visa "Supplement B" certification process after being received by the District Attorney's Office. This process IS NOT limited to the procedures already established and it may change at any point at the time of the process on a case to case basis.

The District Attorney's Office will only certify U-Visa requests for cases in which charges were filed

**Exceptions made for previously signed Interim U-Visa requests signed by our office*

We must have the following to process your request: *(Exceptions may be made on a case to case basis)*

- Partially or completed "supplement B" (for each request)
- Police Report and/or court documentation (for each request)

**Please note that if we need to verify police reports by request through our office, the time to process and return the requests may increase.*

All requests can be made by:

- U.S. Mail
- E-mail: CContreras@ContraCostada.org
- Fax: 925-646-2565
- In person

If you are e-mailing your request please include the name of the applicant for which the U-Visa "Supplement B" request is being made. Please submit each e-mail request for U-visa "Supplement B" separately.

Also NOTE that the District Attorney's Office **DOES NOT** certify U-Visa "Supplement B" requests if charges were not filed by our office. If charges are not filed by our office you will need to send your request to the investigating police agency. We do not know what u-visa (if any) procedures local law enforcement may have so you will need to contact them.

Please include ALL the information pertaining to the applicant on the U-Visa "Supplement B" form and all the crime information (Police Report(s)) for each U-visa "Supplement B" request. ONLY include crime information that is included in the police report for which the U-visa is being certified

When completing "Supplement B" please make sure that you add MARK PETERSON as Head of Certifying Agency and HAROLD JEWETT as certifying Official. The address is 900 Ward St.; 1st Floor P.O. Box 670 Martinez, CA 94553. His phone number is (925) 957-2200 and fax is (925) 646-2565.

Finally, please do not add charges or information on request(s) that cannot be verified. Our office will only certify based on the charges filed, not on what the police report indicates or what should have been filed based on a victim's opinion. All requests are processed in the order that they are received and it may take several weeks before your request is processed.

If you have questions, please call me at (925) 957-8653 or email me at CContreras@ContraCostada.org

Thank you,

Cesar Contreras
Victim Advocate Assistant

Victim Assistance Center
900 Ward Street P.O. Box 670
Martinez, CA 94553

Telephone (925) 957-8650
Fax (925) 646-2565
Restitution Unit (925) 657-8655
www.contracostada.org

4.c. Los Angeles Police Department Special Order, updated May 23, 2014 (CA)

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 7

May 23, 2014

SUBJECT: LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT
VICTIMS OF HUMAN TRAFFICKING AND OTHER SERIOUS CRIMES
AGAINST PERSONS - REVISED

PURPOSE: In November 2008, Special Order No. 42, delineated specific criteria law enforcement should use in order to determine a victim's eligibility for a Law Enforcement Agency (LEA) U-visa certification. It also stated that the determination for the certification was only available while the case was being investigated and prosecuted. Since that time, the United States Citizenship and Immigration Services (USCIS) provided further clarification regarding the role and responsibilities of law enforcement officials.

The purpose of the LEA certification is to identify whether the applicant was a victim of one of the qualifying crimes; the applicant had information relevant to the crime and the applicant was helpful to law enforcement. Helpfulness can be defined as assisting with all reasonable requests from law enforcement and not impeding with the furtherance of the investigation. Additionally, the T-visa and U-visa have been separated within the Department Manual and the related sections, adjusted accordingly.

The Victims of Trafficking and Violence Protection Act (VTVPA) requires that the immigrant victim has suffered substantial physical or mental abuse; however, USCIS will make the determination as to whether the victim has met the "substantial physical or mental" standard on a case-by-case basis during its adjudication of the U-visa petition. Additionally, certifying law enforcement agencies do not make this determination.

BACKGROUND: The T-visa provides immigration protection to victims of severe forms of human trafficking who comply with reasonable requests for assistance from law enforcement in the investigation or prosecution of human trafficking cases. The T-visa allows victims to remain in the United States to assist in the investigation or prosecution of human traffickers. Unlike the U-visa, the T-visa does not require a law enforcement certification.

The U-visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime or who are likely to be helpful in the investigation or prosecution of criminal activity. The U-visa is a temporary visa and only 10,000 are granted nationwide by

Congress per fiscal year. The USCIS has sole authority as to who is granted the temporary U-visa.

PROCEDURE:

- I. **LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING AND OTHER SERIOUS CRIMES AGAINST PERSONS - REVISED AND RENAMED.** Department Manual Section 4/264.70, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking and Other Serious Crimes Against Persons*, has been revised and renamed, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking (T-Visa)*.
- II. **LAW ENFORCEMENT AGENCY ENDORSEMENT - DEFINED - REVISED AND RENAMED.** Department Manual Section 4/264.72, *Law Enforcement Agency Endorsement - Defined*, has been revised and renamed, *Law Enforcement Agency Certification for Immigrant Victims of Serious Crimes Against Persons (U-Visa)*.
- III. **INVESTIGATING OFFICER'S RESPONSIBILITIES - DELETED.** Department Manual Section 4/264.74, *Investigating Officer's Responsibilities*, has been deleted. The content of this section has been included as a subsection of Department Manual Section 4/264.72.
- IV. **AREA DETECTIVE COMMANDING OFFICER'S, OR SPECIALIZED DIVISION COMMANDING OFFICER'S RESPONSIBILITIES - DELETED.** Department Manual Section 4/264.76, *Area Detective Commanding Officer's or Specialized Division Commanding Officer's Responsibilities*, has been deleted. The content of this section has been included as a subsection of Department Manual Section 4/264.72.

Attached are the revised Manual sections with revisions indicated in italics.

- V. **DEPARTMENT OF HOMELAND SECURITY, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, FORM I-918, SUPPLEMENT B (I-918B), U NONIMMIGRANT STATUS CERTIFICATION - CLARIFIED.**
 - A. **Use of Form.** The use of this form remains the same.
 - B. **Completion.** *The Department must complete the Form I-918B, as directed by the Department of Homeland Security, I-918B instructions.*

Additionally, the following directions clarify the information for completing Part 2:

Note: Designated Certifier. All Law Enforcement Agency certifications must only be signed by those of detective supervisory rank whose signature is on the U-visa Certifying Official Information Form authorized by the Chief of Police and on file with USCIS.

All original U-visa Certifying Official Information Forms must be returned to Detective Bureau for processing. Areas or Specialized Investigative Divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., must notify the Department Domestic Violence Coordinator, Detective Bureau, of such changes and provide a replacement. A new U-visa Certifying Official Information Form will need to be completed when there is a personnel change.

- * The Los Angeles Police Department should be listed as the "Certifying Agency"; and,
- * The Chief of Police should be listed as the "Head of Certifying Agency."

Note: If the review of an initiated Form I-918B determines that the victim does not qualify for a U-visa certification, no documentation will be made on the Form I-918B. The form must only be completed if a certification is to be provided.

The completion of the remainder of this form remains the same.

- C. **Distribution.** The distribution of this form remains the same.

FORM AVAILABILITY: Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victims of Trafficking in Persons, can be accessed via direct link at, <http://www.uscis.gov/files/form/i-914supb.pdf>. Form I-918, Supplement B, U Nonimmigrant Status Certification, can be accessed via direct link at, <http://www.uscis.gov/files/form/i-918supb.pdf>.

The following forms and resources can be obtained by contacting the Department U-visa Coordinator within Detective Bureau:

May 23, 2014

- Training Bulletin - Human Trafficking, Vol. XLII, Issue 3, September 2012;
- Denial Letter;
- Withdrawal/Disavowing Letter; and,
- Law Enforcement Resource Guide.

AMENDMENTS: This Order amends Sections 4/264.70 and 4/264.72; and deletes Sections 4/264.74 and 4/264.76 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Internal Audits and Inspections Division, will review this directive and determine whether an audit or inspection will be conducted in accordance with Department Manual Section 0/080.30.



CHARLIE BECK
Chief of Police

Attachments

DISTRIBUTION "D"

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4/264.70 LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING (T-VISA). The Department *is responsible for completing* a Law Enforcement Agency (LEA) endorsement **upon request of the immigrant victim**, providing the immigrant victim meets the qualifications as delineated in this section.

***T-visa defined.** The T Nonimmigrant status visa (also known as the T-visa) provides immigration protection to victims of severe forms of human trafficking who assist law enforcement in the investigation or prosecution of human trafficking cases. A law enforcement declaration is evidence of a victim's cooperation and it may be submitted in support of a T-visa application.*

T-visa Qualifications. Immigrant victims of human trafficking and the immigrant victim's family members may be eligible to apply for a T-visa. A LEA endorsement *must* be provided to the immigrant victim of human trafficking upon request, if the victim meets the qualifications. This will be based upon the investigating officer's (I/O) knowledge of the case, and any additional evidence developed. *The I/O must determine* that the applicant is present in the United States as a result of being a victim of a severe form of trafficking in persons; and, determine if the applicant has complied with reasonable requests throughout the investigation.

***Note:** The endorsement must be completed on the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.*

The LEA endorsement is prepared by Robbery-Homicide Division (RHD), Robbery Special Section (RSS), when the crime of labor trafficking and human smuggling has occurred and been investigated by their investigators. The LEA endorsement is prepared by Detective Support and Vice Division (DSVD) when the crime of human trafficking as related to commercial sexual exploitation has occurred and been investigated by their investigators. Robbery-Homicide Division and DSVD are both part of the Los Angeles Metro Task Force on Human Trafficking. Both entities will complete the endorsement for an immigrant victim seeking a T-visa within 15 business days of the first encounter with the victim [California Penal Code Section 236.5 (a)].

Investigating Officer's Responsibilities. The I/O must verify that the immigrant victim meets the qualifications for a T-visa LEA endorsement. Investigating officers *must* follow the I-914, Supplement B, federal form instructions. The I/O *must* ensure the following when issuing the LEA endorsement:

- The I-914, Supplemental B, federal form is completed and their respective Officer-in-Charge (OIC) or commanding officer (CO) has signed the endorsement. All completed LEA endorsements for T-visas must be forwarded to the CO, RHD, or DSVD dependent upon the issuing entity for endorsement and signature;
- The I-914, Supplement B, for the T-visa application must be provided within 15 business days of the determination that the immigrant victim meets the necessary qualifications;

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- Attempt to verify the immigrant victim's identity when providing the LEA endorsement, either by government-issued identification (e.g., passport) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);
- Ensure all information related to the LEA endorsement is updated in the Detective Case Tracking System (DCTS) or maintained in the case file; and,
- Review the information contained in the federal form and supporting documentation.

LEA Endorsement - Denial Procedures. *If the CO of DSVD or RHD determines that a LEA endorsement will not be provided, the I/O must:*

- Update the DCTS indicating that a LEA endorsement was denied; and,
- Provide the victim with a denial letter on Department letterhead within 15 business days and place a copy in the secure file maintained by RHD.

LEA Endorsement - Victim Appeal Procedure. *The victim may submit additional evidence to the law enforcement agency, which the investigating officer and supervisor must reconsider and respond to the denial of the LEA certification within one week of the receipt of additional evidence [236.5 (c) PC]. The CO of either RHD or DSVD, whichever is applicable, has been designated as the final level of appeal and must make the final decision regarding the issuance or denial of the T-visa endorsement.*

Note: *All updated information must be maintained in a T-visa request file and updated in DCTS. In cases where DCTS tracking is unavailable, all information must be maintained in a secure file and maintained in the case package.*

Robbery-Homicide Division and Detective Support and Vice Division Commanding Officer's Responsibilities.

- Track LEA endorsement requests;
- Review the information contained in the federal form and supporting documentation;
- Have final authority for the authorization or denial of T-visas; and,
- All LEA endorsements completed by both DSVD and RHD, RSS for T-visa must be forwarded to the CO, RHD, where they must be maintained in a secure file.

Detective Bureau Commanding Officer's Responsibilities.

- The CO, Detective Bureau, will designate a coordinator to track the number and outcome of all T-visa requests Department-wide.

264.72 LAW ENFORCEMENT AGENCY CERTIFICATION FOR IMMIGRANT VICTIMS OF SERIOUS CRIMES AGAINST PERSONS (U-VISA). *The Department is responsible for completing a LEA certification upon request of the immigrant victim, providing the immigrant victim meets the qualifications as delineated in this section.*

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U-visa defined. *The U Nonimmigrant status visa (also known as the U-visa) provides immigration protection for victims of qualifying crimes who have been helpful, are being helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the criminal activity. A LEA certification is one piece of a larger application that a victim must submit for U-visa consideration to the United States Citizenship and Immigration Services (USCIS).*

The Victims of Trafficking and Violence Protection Act requires that the immigrant victim has suffered substantial physical or mental abuse; however, the USCIS will make the determination as to whether the victim has met the "substantial physical or mental" standard on a case-by-case basis during its adjudication of the U-visa petition. In addition, the U-visa certification is not granted based on whether or not criminal charges have been filed or a conviction obtained.

Qualifications that the victim must meet are as follows:

- *Must be a victim of qualifying criminal activity (refer to list of crimes on Form I-918 Supplement B, U Nonimmigrant Status Certification, Part 3. Criminal Acts);*
- *Must possess information relevant to the crime;*
- *The victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime(s). (Helpfulness can be defined as assisting with all reasonable requests from law enforcement and not impeding the furtherance of the investigation.);*
- *The victim has provided information and assistance reasonably requested by law enforcement; and,*
- *The crime(s) must have violated United States law and have occurred within the City of Los Angeles.*

Additionally, certain immediate family members and indirect victims of U-visa recipients may also be eligible to live and work in the United States as derivative U-visa recipients based on their relationship with the principal recipient.

These family members include:

- *Unmarried children under the age of 21 of principal U-visa recipients;*
- *Spouses of principal U-visa recipients;*
- *Parents of principal U-visa recipients under age 21; and,*
- *Unmarried siblings under the age of 18 of principal U-visa recipients under age 21.*

Indirect Victims include:

- *A parent of a child victim under 21 years of age;*
- *Parent of a victim that is incapacitated or incompetent to cooperate with the investigation; and,*
- *Parent of a deceased child due to murder or manslaughter.*

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Exceptional Handling:

- *In the event that the victim has multiple qualifying criminal cases, the Area should accept the request for certification regardless of other pending cases;*
- *Cases where there is no investigative follow up by Area/Specialized Division Detectives (i.e., Direct File cases), the victim's level of cooperation should be assessed based on their cooperation during the preliminary investigation;*
- *U-visa certification requests can be prioritized based on time sensitive issues, needing to meet a deadline for USCIS; and,*
- *In order to qualify as an indirect victim, they must have information regarding the crime, must be helpful to law enforcement and the crime must have violated one of the qualifying crimes. (See Form I-918, Supplement B, U Nonimmigrant Status Certification.)*

Area Detective Commanding Officer or Specialized Investigative Division Commanding Officer's Responsibilities. *The Area detective CO or the specialized investigative division CO is the U-visa Coordinator for his or her command and must:*

- *Assign a specific detective supervisor, as well as a back-up person to coordinate the processing of the LEA certification requests;*
- *Ensure that a specific detective is assigned the certification request. If the victim meets the qualifications for certification, sign and date the LEA certification (the signature should be signed in a color of ink other than black for verification purposes);*

Note: *All LEA certifications must only be signed by those of detective supervisory rank whose signature is on the U-visa Certifying Official Information Form authorized by the Chief of Police and on file with USCIS. All original U-visa Certifying Official Information Forms must be returned to Detective Bureau for processing. Areas or Specialized Investigative Divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., must notify the Department Domestic Violence Coordinator, Detective Bureau, of such changes and provide a replacement. A new U-visa Certifying Official Information Form will need to be completed when there is a personnel change.*

- *Ensure that an appropriate response is provided to the victim or their legal representative within 30 days after the request was received;*
- *Ensure that each LEA certification request is updated within the Detective Case Tracking System (DCTS) along with the determination to certify or deny the request;*
- *Maintain a tracking system with the number of requests received and the determinations made; and,*
- *Make the final decision regarding the issuance or denial of the U-visa certification, as the final level of appeal.*

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Investigating Officer's Responsibilities. The investigating officer assigned to research the LEA certification request must verify that the immigrant victim meets the qualifications for a U-visa, LEA certification (refer to U-visa qualifications); and,

- Attempt to verify the immigrant victim's identity when providing the LEA certification, either by government-issued identification (e.g., passport) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);
- Follow the federal form instructions when completing the LEA certification;
- Ensure the Form I-918, Supplement B, U Nonimmigrant Status Certification form is completed with the exception of the Signature of Certifying Official;
- Return the LEA certification to the U-visa coordinator within the 30-day timeline;
- Ensure all information related to the LEA certification is updated in DCTS; and,

Note: A reasonable extension may be granted by the U-visa coordinator for certification requests requiring additional research.

- Ensure a copy of the LEA certification and all additional information is maintained within the detective case package.

LEA Certification Denial Procedures: If the Area detective CO or the specialized investigative division CO determines that a LEA certification will not be provided, the assigned I/O must:

- Document the finding(s) and reason(s) for denial in DCTS;
- Complete a denial letter on Department letterhead signed by the Area detective division CO or the specialized investigative division CO; and,
- Provide a copy to the victim or their legal representative.

Appeal Procedure. In the event that the certification is denied and the victim would like to appeal the denial, the case must be reviewed by the Area detective CO or the specialized investigative division CO. The Area detective CO or the specialized investigative division CO, whichever is applicable, will be the final level of appeal and must make the final decision regarding the issuance or denial of the U-visa certification.

Disavowing/Withdrawing of LEA Certification. A certifying agency may disavow or withdraw their certification if the victim stops cooperating. To do so, the I/O must notify the USCIS – Vermont Service Center in writing on Department letterhead, which should include:

- The name and date of birth of the individual;
- The name of the individual who originally signed the LEA certification and date it was signed;
- The reason why the LEA certification is being disavowed/withdrawn describing how the victim had refused to cooperate with reasonable requests made by the I/O;
- The signature and title of the individual who is disavowing/withdrawing the certification; and,

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- *A copy of the previously signed certification, if there is one on file.*

Bureau Commanding Officer's Responsibilities.

- *The CO from each bureau must have oversight on the effectiveness of their Areas.*

Detective Bureau Commanding Officer's Responsibilities.

- *The Detective Bureau Commanding Officer will designate a coordinator to track the number and outcome of all U-visa requests Department-wide.*

4.d. Los Angeles Sheriff's Department Operations Directive (CA)

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services, (323) 890-5411



FIELD OPERATIONS DIRECTIVE: 09-02

DATE: July 03, 2012

ISSUED FOR: LEADERSHIP AND TRAINING DIVISION
FIELD OPERATIONS REGIONS
DETECTIVE DIVISION

PROCEDURES FOR PROCESSING CRIME VICTIM
VISA REQUESTS (U VISA)

BACKGROUND INFORMATION

In September 2007, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) published rules that grant up to four years of temporary immigration benefits to certain victims of crimes who assist government officials (law enforcement) in investigating and/or prosecuting criminal activity. The "U Visa" was created to help curtail criminal activity, protect victims, and encourage victims to fully participate in the investigation and/or prosecution of a case.

U VISA RULES

A person must be the victim of one or more of the following (or any similar) crimes:

- | | | |
|---------------------------|-----------------------|------------------------------|
| Rape | Being Held Hostage | Manslaughter |
| Torture | Involuntary Servitude | Murder |
| Trafficking | Slave Trade Kidnaping | Felonious Assault |
| Incest | Abduction | Witness Tampering |
| Domestic Violence | Unlawful Criminal | Obstruction of Justice |
| Sexual Assault | Restraint | Perjury |
| Abusive Sexual Contact | False Imprisonment | Peonage (holding persons in |
| Prostitution | Blackmail | servitude or partial slavery |
| Sexual Exploitation | Extortion | to work off a debt or to |
| Female Genital Mutilation | | serve a penal sentence) |

If a person is a victim of an attempt, conspiracy, or solicitation to commit any of the above crimes, that person would also be considered a victim and qualify under the U Visa application criteria.

The USCIS has created specific criteria which an applicant must follow to qualify for a U Visa application. They are as follows:

- The victim must be the victim of one of the above criminal acts.
- The victim must have suffered substantial physical or mental abuse as a result of having been a victim of one of the above criminal acts.
- The victim has been, is being, or is likely to be helpful in the official investigation or prosecution of the criminal act in which they are a victim.

The U Visa is not granted based on whether a case is filed with the District Attorney's Office or if there is a conviction of a defendant. The victim is also allowed to request U Visas for qualifying family members. If a victim is under the age of 21, they are allowed to add their spouse, unmarried child, parents, and unmarried siblings under the age of 18. If a victim is over the age of 21, they are allowed to add their spouse and unmarried children under the age of 21.

The U Visa application requires that the USCIS I-918 Supplement B form be completed by the law enforcement agency handling the investigation, the District Attorney's office prosecuting the case, the judge presiding over the case, or any other enforcement agency. An agency's decision to provide a certification is entirely discretionary. Completing the I-918 Supplement B form does not automatically grant the victim U Visa status.

USCIS is the agency that makes the determination if the victim has met the "substantial physical or mental abuse" qualification. They will evaluate this qualification on a case-by-case basis during the adjudication of the U Visa petition.

STATION DETECTIVE BUREAU RESPONSIBILITIES

When a U Visa request is made, the detective supervisor or their designee shall review the request to endorse or deny the U Visa request based on the USCIS' criteria. Each U Visa request shall be reviewed on an individual basis by confirming the following information from the case file and departmental copy of the incident report:

- Qualifying crime committed against the victim.
- The victim's helpfulness in the investigation of the case (the victim's helpfulness can be described as continued cooperation and assistance in the investigation and/or interviews of the case).

If a unit determines that a positive endorsement is warranted, the I-918 Supplement B form shall be completed. The victim's injuries shall be documented in the I-918 Supplement B form. The

form can be obtained from Field Operations Support Services' website. The certification form shall be submitted to the station unit commander for review and signature along with the Sheriff's agency designation letter. A sample copy of the Sheriff's agency designation letter can be obtained from Field Operations Support Services' website.

If the U Visa request is denied, the victim shall be advised.

After a certification has been completed and given to the victim and the victim unreasonably refuses to assist in the investigation or prosecution, you may notify USCIS in writing of the victim's refusal to participate. The information for the written notification is available on the I-918, Supplement B form.

When a U Visa request is made, the detective supervisor or their designee shall complete the U Visa Tracking Sheet. The original tracking sheet shall be forwarded to Field Operations Support Services.

UNIT COMMANDER'S RESPONSIBILITIES

The form and letter shall be reviewed and signed by the unit commander.

Once the certification form and letter have been signed by the unit commander, the form and letter shall be given to the victim.

CITES / REFERENCES

8 CFR Parts 103, 212, 214, 248, 274a and 299

5.b. Oakland City Council Report and Resolution (CA)

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JAN 10 PM 5: 59

To: Office of the City Administrator
Attn: Deborah Edgerly
From: Police Department / Oakland City Attorney
Date: January 22, 2008

Re: A Report Resolution Declaring Support for (1) The United States U Visa Program, Which Is A Temporary Visa That Authorizes Non-United States Citizen Crime Victims Who Assist Law Enforcement Agencies With Crime Investigations To Remain In This Country Up To Four Years, And (2) Supporting The Federal Policy That Authorizes The U Visa for Applicants Who Have Contributed To The Public Safety Of This City

SUMMARY

Staff has prepared a report and resolution making a policy statement that the City of Oakland is in support of the United States U Visa Program, and supporting the United States government and Secretary of Homeland Security in administering the U Visa program in a way that makes the U Visa available to non-U.S. resident crime victims who have contributed to the public safety of the City of Oakland.

FISCAL IMPACT

Approval of this resolution will have no fiscal impact on the Department. The existing review and issuance of Certifications of Assistance submitted by U Visa applicants is a short process which takes only a few minutes to complete. The Department currently processes a mere 4 to 5 a month.

BACKGROUND

In October 2000, Congress passed the Victims of Trafficking and Violence Protection Act (the Act); as part of this Act, Congress created the U Visa Program to strengthen the ability of law enforcement agencies to detect, investigate and prosecute crimes against non-U.S. residents. Congress recognized that victim cooperation and assistance is often a key component to effective detection, investigation or prosecution of crimes. When victims are non-U.S. residents, their immigration status in the United States can directly affect their ability to cooperate and assist local law enforcement agencies in the investigation or prosecution of these crimes.

Non-U.S. resident crime victims usually need to be present in the United States so they are accessible to provide information and testimony as part of an investigation or prosecution. Non-U.S. resident crime victims may also need a place of refuge so they can avoid returning to an environment abroad where they could be exposed to further serious crimes. Accordingly,

427743

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Public Safety Comte.
January 22, 2008

temporary immigration status by amending certain sections of the Immigration and Nationality Act (INA) to create the *U Visa*.

The Oakland City Council previously passed Resolutions No. 63950 (July 8, 1986), 77431 (September 17, 2002), and 80584 (May 15, 2007) C.M.S. declaring Oakland as a City of Refuge from humanitarian abuses abroad, recognizing the positive contributions of immigrants to the culture and economy of Oakland, and urging the Federal Government to adopt fair comprehensive and humane immigration reforms. The City of Oakland's participation in the U Visa Program is consistent with and furthers the humanitarian policies of the City of Oakland.

The U Visa Program

The U Visa is akin to a form of witness protection¹. It is a non-immigrant, temporary visa, which allows a non-U.S. resident crime victim who has suffered substantial physical or mental abuse from certain crimes (specified in federal law), and who provides information that has, is, or will assist law enforcement in the investigation or prosecution of the crimes, to remain in the United States for up to four years. After the third year, the victim may be eligible to adjust his or her status to that of an immigrant, or permanent resident, unless the victim breaches her/his ongoing responsibility to provide assistance in a criminal investigation or prosecution. U Visa recipients may also legally work in the United States.

The U Visa is available to the victim and her/his immediate family, including spouses and children under 21 years old. If the victim is a child, a parent may be granted U Visa status, if (1) it is necessary to avoid extreme hardship to the spouse, child or parent and (2) there is a law enforcement certification that an investigation or prosecution would be harmed without the assistance of the spouse, child or parent.

To qualify for a U Visa, an applicant must demonstrate to the United States Citizenship and Immigration Service ("USCIS", formerly "INS") that she or he meets the requirements set forth at INA Section 101(1) (15) (U); 8 U.S.C. 1101(a) (15) (U). This provision of Federal Law, requires, among other things, that the U Visa applicant include with her/his application a Certification of Assistance from a Federal, State or local qualifying official (such as, but not limited to a law enforcement officer, prosecutor or judge) that affirms::

- the foreign victim has been, is being, or is likely to be "helpful";
- the investigation of qualifying criminal activity is set forth in the applicable federal statute;
- the criminal activity violated U.S. law abroad or occurred in the United States or its territories.

The underlying crime must be a violation of federal, state or local criminal law, or must have occurred while in the United States (including in Indian country² [sic] and military installations) or its territories or possessions. The qualifying crimes for the U Visa Program are:

¹ Quoting the federal Act: it offers "protection to victims of such offenses in keeping with the humanitarian interests of the United States."

² This is the term used in the Federal statute, and presumably means federally recognized "Indian Reservations."

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Rape, torture, trafficking, incest, domestic violence, sexual assaults, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

The crime could have occurred in the United States upon a victim who is a tourist or student that has some type of limited duration visa. It could have been perpetrated on a person who has entered this country without a visa, as the City has seen in cases of *amigo checking*,³ child abuse, and domestic violence. Also, the crime could have completely occurred abroad, but violates United States law, such as when a United States citizen engages in child prostitution or human trafficking while in a foreign country, in which case the victim would usually need to be brought to the United States to assist in the investigation or prosecution.

By statute, only 10,000 total U Visas can be issued to victims annually. These limits do not include qualified family members. In addition, recipients of the U Visa are eligible for employment authorization, and may (after three years) apply to adjust their status to that of lawful permanent resident in accordance with federal law.

KEY ISSUES AND IMPACTS

The Oakland Immigrants Coalition⁴ has facilitated and continues to facilitate contact between non-U.S. resident crime victims and the Oakland Police Department concerning serious crimes; thereby enhancing the Department's awareness of crimes and providing the opportunity for investigation. The Coalition members' work with the Department has also highlighted the advantage to U Visa applicants if they had a written policy statement of general support of the U Visa program from the City Council to submit with their U Visa applications. As demonstrated by the City's policies and values stated in prior resolutions, the City of Oakland's participation in the U Visa Program is consistent with and furthers the humanitarian policies of the City of Oakland.

The Oakland Police Department has been issuing Certifications of Assistance since 2005. Since first centralizing and tracking these applications in July 2007, the Police Department has reviewed 18 requests, denying only one which did not satisfy "helpful" standards. As of the date of this report, the Alameda County District Attorney's Office had processed one request in 2007.

³ "Amigo Checking" is a street term referring to the practice of committing street robberies targeting persons believed to be undocumented day laborers. Suspects have confessed that this type of victim is chosen because of the assumption that they will not report the crime to the police.

⁴ The Oakland Immigrants Coalition is made up of the following organizations: The International Institute of the East Bay, Centro Legal de La Raza, the Black Alliance for Just Immigration, The Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, the Immigrants Legal Resource Center, the Law Center for Families, and the Asian Pacific Islanders Legal Outreach.

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The Oakland Police Department has been issuing Certifications of Assistance since 2005. Since first centralizing and tracking these applications in July 2007, the Police Department has reviewed 18 requests, denying only one which did not satisfy "helpful" standards. As of the date of this report, the Alameda County District Attorney's Office had processed one request in 2007.

From its experience over the last three years, the Police Department believes that the policy statement made in this resolution will encourage foreign crime victims to report crimes, and will increase the Department's ability to discover and investigate serious crimes that befall non-U.S. residents, such as human trafficking, child abuse, and domestic violence. The Department's history of working to provide Certifications of Assistance to U Visa applicants has already helped garner trust among the immigrant and non-U.S. resident community by showing that the Department helps crime victims regardless of their immigration status. This improved the relationship between the Department and the community is invaluable in fighting crime, and increases public safety throughout the City.

The cooperation between the Police Department, immigrants, and non-U.S. resident crime victims in the context of U Visa applications has furthered the City's humanitarian policies, which include being a City of Refuge to victims of human rights abuses. It is also expected to strengthen the ties between the immigrant community and the police, overcoming the traditional suspicion and distrust of police that immigrants often bring from abroad.

While only 18 applications have been processed by the Department since July 1, 2007, it is estimated that approximately 10-15% of the total Youth and Family Services Division investigative caseload (or 395-592 actual cases) involves victims that might be eligible for the U Visa. This anticipated increase in applications will, therefore, provide a more realistic gauge of the impact the U Visa program has on and/or how effective it is in the City. Staff expects that as the popularity and accessibility of the U Visa increases, so will the detection and reporting of criminal activity.

The ACLU (American Civil Liberties Union) supports the U Visa Program and views it as an important form of cooperation between local police and the immigrant community and sent a policy statement letter, dated December 20, 2007, directly to the Oakland City Council.

Though no particular group or person opposing the U Visa Program has made its position known to the City, a potential problem could be the risk of abuse of the program by opportunistic applicants who wish to obtain legal status in the United States. This might be done by making a false crime report and seeking a Certification of Assistance from the Police Department to support a U Visa application. The Department will closely review the crime information submitted in support of a U Visa, and identify suspicious crime reports in order to diminish any concern about false reporting. The Oakland Police Department's role in the U Visa process is limited to certifying that it is investigating a qualifying crime, and that the victim has or is providing assistance (evidence or testimony) in the investigation and/or prosecution of the crime. The USCIS will make all other determinations involved in the grant/denial of a U Visa application, as described in the next section of this report.

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PROGRAM DESCRIPTION

The U Visa process typically begins with a request⁵ being submitted by the victim's advocate and/or attorney and received by the Police Department representative (designated by the Chief of Police). The Department's role is to certify only two things (1) that the U Visa applicant is the victim of a qualifying crime, and (2) that the applicant is, has been, or is likely to be helpful in the investigation or prosecution of that criminal activity.

The Police Department's review will consist of:

- reading the initial incident report and any and all supporting/follow-up documents that pertain to the incident in question; and
- determining if the victim has been helpful, is being helpful or is likely to be helpful in the investigation or prosecution.

In addition, the reviewing supervisor shall determine whether or not the case would be harmed without the assistance / presence of the victim. All applications are logged in a Departmental tracking system that is housed in the Youth and Family Services Division.

Depending on the final assessment of "helpfulness," the Department issues a Law Enforcement Certification, or denies the request. The final action is logged into the Departmental tracking system. It is the U Visa applicant's responsibility to submit his/her U Visa application, including the Certification of Assistance, to the USCIS for processing.

The USCIS reviews the application and makes all assessments concerning eligibility for the U Visa, such as whether the applicant has suffered substantial harm, whether the criminal activity fits the federal statute, and even whether the evidence provided by the victim is "helpful" to the local official's investigation or prosecution of the case. In determining whether granting a U Visa would serve the "public or national interest," the City Council's Resolution may be persuasive to the Secretary of Homeland Security.

In those cases in which a U Visa has been issued or is pending, and the victim unreasonably refuses to cooperate with the police, the Department will report such change in circumstances to the USCIS; which would then consider this fact in denying an application or revoking a U Visa if one has already been granted.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic concerns associated with this report.

⁵ Referred to as a Law Enforcement Certification form (I-918 Supplement B) – copy attached.

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January 22, 2008

Environmental: There are no environmental concerns associated with this report.

Social Equity: Enactment of this program will enhance the Police Department's ability to detect and investigate criminal activity throughout the City and therefore apprehend those who prey upon fellow human beings. Subsequently, the Department will be able to provide more effective police services to those who, in the past, have shied away from law enforcement.

The U Visa Program furthers the City's humanitarian policies of providing refuge to victims of human rights violations and crimes abroad.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior citizen access issues identified in this report.

RECOMMENDATION / ACTION REQUESTED OF COUNCIL

Staff recommends acceptance of this report and approval of the proposed resolution authorizing the City Administrator to, 1) support the United States U Visa Program and 2) support a Federal Policy authorizing the U Visa for applicants who have contributed to the public safety of this City.

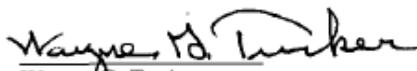
Respectfully submitted,



John Russo,
City Attorney

Reviewed by:
Pelayo Llamas
Deputy City Attorney

Respectfully submitted,



Wayne G. Tucker
Chief of Police

Prepared by:
Kevin N. Wiley
Lieutenant of Police
Youth and Family Services Division

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Administrator

Item: _____
Public Safety Comte.
January 22, 2008

OFFICE OF THE CITY CLERK
OAKLAND


Oakland City Attorney's Office

2008 JAN 10 PM 5:59 **OAKLAND CITY COUNCIL**

RESOLUTION No. _____ C.M.S.

RESOLUTION DECLARING SUPPORT FOR (1) THE UNITED STATES U VISA PROGRAM, WHICH IS A TEMPORARY VISA THAT AUTHORIZES NON-UNITED STATES CITIZEN CRIME VICTIMS WHO ASSIST LAW ENFORCEMENT AGENCIES WITH CRIME INVESTIGATIONS TO REMAIN IN THIS COUNTRY UP TO FOUR YEARS, AND (2) SUPPORTING THE FEDERAL POLICY THAT AUTHORIZES THE U VISA FOR APPLICANTS WHO HAVE CONTRIBUTED TO THE PUBLIC SAFETY OF THIS CITY

WHEREAS, in 2000, the United States Congress created the U Visa classification in the Victims of Trafficking and Violence Prevention Act (VTVPA), which allows foreign visitors and other non-U.S. residents who are victims of specified serious criminal activity ("foreign crime victims"), and who are needed to furnish information or evidence regarding that criminal activity to assist government officials in the investigation or prosecution of such activity, to legally remain in the United States for up to four years, with possible extensions, to legally work, and to apply for permanent residence; and

WHEREAS, Congress' intent, in passing the VTVPA and creating the U Visa Program, was to strengthen the ability of local law enforcement agencies to detect, investigate, or prosecute serious crimes committed against non-U.S. residents by providing them with legal status in this country when they assist local law enforcement agencies; and

WHEREAS, it is also Congress' intent, by creating the U Visa Program, to offer "protection to victims of . . . offenses in keeping with the humanitarian interests of the United States"; and

WHEREAS, since July 2007, the Oakland Police Department has received assistance from foreign crime victims in 17 serious criminal cases, for which the Department issued Certifications of Assistance, and expects to continue to receive future reports, evidence, and testimony about serious crimes committed against them; and

WHEREAS, approval of this resolution will have no fiscal impact on the Department, as the existing review and issuance of Certifications of Assistance submitted by U Visa applicants is a short process which takes only a few minutes to complete, and the Department currently processes a mere four to five a month; and

WHEREAS, the information and assistance about serious crimes provided to the Oakland Police Department by foreign crime victims directly improves the safety and overall quality of life of the residents of Oakland because it increases the information available for the investigation and prosecution of serious crimes, which benefits all the residents of Oakland; and

WHEREAS, the Oakland Immigrants Coalition (including the International Institute of the East Bay, Centro Legal de La Raza, the Black Alliance for Just Immigration, The Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, the Immigrants Legal Resource Center, the Law Center for Families, and the Asian Pacific Islanders Legal Outreach) has facilitated and continue to facilitate contact between foreign crime victims and the Oakland Police Department about serious crimes; and

WHEREAS, the relationship and cooperation between foreign crime victims, the Oakland Immigrants Coalition, and the Oakland Police Department has built bridges in the community, to the benefit of the City of Oakland's residents; and

WHEREAS, the Oakland City Council has previously passed Resolutions No. 63950 (July 8, 1986), 77431 (September 17, 2002), and 80584 (May 15, 2007) C.M.S. declaring Oakland as a City of Refuge from humanitarian abuses, recognizing the positive contributions of immigrants to the culture and economy of Oakland, and urging the Federal Government to adopt fair comprehensive and humane immigration reforms; and

WHEREAS, Oakland's participation in the U Visa Program may provide protection to victims of serious crimes specified in the VTVPA, namely - *rape, torture, trafficking, incest, domestic violence, sexual assaults, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes*; and

WHEREAS, Oakland's participation in the U Visa Program is consistent with the City of Oakland's humanitarian values and policies, as stated in the City Council Resolutions recited above; now, therefore be it

RESOLVED: That the City Council of the City of Oakland declares its support for the U Visa Program as being consistent with the City's humanitarian values; and be it

FURTHER RESOLVED: That it is in the City of Oakland's public interest and benefit that U Visas are made available to foreign crime victims who have assisted or will assist the Oakland Police Department by reporting and/or furnishing evidence of serious crimes; and be it

FURTHER RESOLVED: That by this Resolution, the City of Oakland documents its support of the U Visa Program.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

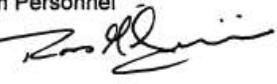
7.a. San Francisco Sheriff's Department Inter-Office Correspondence Re. U Visa



San Francisco Sheriff's Department

INTER-OFFICE CORRESPONDENCE

February 24, 2015
Reference: 2015-014

To: All Sworn and Program Personnel
From: Sheriff Ross Mirkarimi 
Re: Assisting Undocumented Victims of Human Trafficking, Domestic Violence, Sexual Assault, Felonious Assault and Other Qualifying Crimes

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 enables the San Francisco Sheriff's Department (SFSD) to assist immigrant victims in detecting and reporting certain crimes and protecting them during the course of the investigation and prosecution. The U Visa, a nonimmigrant visa, is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the detection, investigation, or prosecution of a crime, or who are likely to be helpful in the detection, investigation, or prosecution of criminal activity.

The San Francisco Sheriff's Department, in accordance with the VTVPA, will follow the guideline of "qualifying crimes" in our effort to detect, investigate, and assist with the prosecution for crimes that occur within our jurisdiction. Once a victim who may qualify has been identified, whether they are in custody or out of custody, they will be referred to SFSD Survivor Restoration Program.

This important law enforcement tool assists victims in recovering from the trauma of criminal acts and in finding a safe and secure place to move forward with their lives. Over the years the SFSD Survivor Restoration Program has worked tirelessly to support vulnerable populations and has enabled them in developing the self-reliance and confidence to live independently. The U-Visa provides temporary legal status to these individuals.

Any time a staff member has been made aware of or suspects that a person in our custody or in one of our out-of-custody programs may be a victim of human trafficking, domestic violence, felonious assault, or other qualifying crimes on the attached list, the staff member is directed to refer that person to our Survivor Restoration Program. The Survivor Restoration Program will evaluate the individual's eligibility for the U Visa process. The Survivor Restoration Program will also forward any reported criminal activity to the Criminal Investigation's Unit for investigation or referral to the appropriate law enforcement agency for investigation.

I have authorized our Criminal Investigation's Unit Commander to be the certifying official to complete United States Citizenship and Immigration Services (USCIS) Form I-918 Supplement B (Form I-918B), as appropriate, as another tool to assist these immigrant crime victims and to detect, investigate, and prosecute these crimes. Form I-918B is a law enforcement certification that a qualifying crime has occurred and that the victim was helpful, or is likely to be helpful in the detection, investigation or prosecution of criminal activity. This certification is one step in the U Visa process.

T Visa, a nonimmigrant visa, may be available for those identified persons who were victims of severe forms of trafficking who comply with requests for assistance from law enforcement in the investigation or prosecution of human trafficking cases. I have authorized our Criminal Investigation's Unit Commander to complete USCIS Form I-914 Supplement B (Form I-914B), as appropriate, in these cases.

All questions regarding services provided to victims who may qualify for U Visa or T Visa relief should be directed to Delia Ginorio at (415) 734-2310. Questions regarding the department's role in U-Visa certification may be addressed to the Sheriff's Department Criminal Investigation Unit (415) 734-3111 or our Legal Counsel (415) 554-7225.

What Constitutes a Qualifying Crime?

<ul style="list-style-type: none"> • Abduction • Abusive Sexual Contact • Blackmail • Domestic Violence • Extortion • False Imprisonment • Felonious Assault • Fraud in Foreign Labor Contracting • Being Held Hostage • Incest 	<ul style="list-style-type: none"> • Involuntary Servitude • Kidnapping • Manslaughter • Murder • Obstruction of Justice • Peonage • Perjury • Prostitution • Rape 	<ul style="list-style-type: none"> • Sexual Assault • Sexual Exploitation • Slave Trade • Stalking • Torture • Trafficking • Witness Tampering • Unlawful Criminal Restraint • Other Related Crimes*†
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Please also check INA § 101(a)(15)(U); 8 USC § 1101(a)(15)(U) as the list of qualifying crimes may change or expand.

Reference: http://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf

*Includes any similar activity where the elements of the crime are substantially similar.
 †Also includes attempt, conspiracy, or solicitation to commit any of the above, and other related, crimes.

7.b. San Francisco District Attorney Support for U Visa Inadmissibility Waivers (CA)

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



KAMALA D. HARRIS
District Attorney

October 23, 2007

US Citizenship and Immigration Services
75 Lower Weldon Street
St. Albans, VT 05479

**RE: Waiving Grounds of Inadmissibility for Applicants for U Visa Nonimmigrant Status
is in the National and Public Interest**

Dear Immigration Officer:

Since the creation of the U Visa (or U Visa Interim Relief) my office has been successful in prosecuting many violent criminals with the cooperation of undocumented immigrant victims who had the courage to come forward and assist in the detection, investigation or prosecution of these crimes.

It has come to my attention that the U visa regulations have now been finalized and these deserving immigrants will now have the opportunity to apply for a legal non-immigrant status in the United States. A majority of these qualified immigrants will be required to file a waiver request in order to be granted non-immigrant status. The intent of this letter is to strongly urge the Citizenship and Immigration Service to grant inadmissibility waivers for these applicants unless there is some other public safety concern regarding specific applicants.

As you are aware, in passing the Victims of Trafficking and Violence Prevention Act (VTVPA) in October 2000, the intent of Congress was to strengthen the ability of law enforcement agencies to detect, investigate and prosecute crimes against immigrants. I can assure you that the creation of the U Visa has resulted in cooperation by immigrant victims and has led to the apprehension and prosecution of violent criminals. If these victims are not granted an inadmissibility waiver after having cooperated fully with law enforcement, the intent of congress will be thwarted and the probability of obtaining immigrants' assistance in the future would diminish.

Granting inadmissibility waivers to these immigrant victims of crime serves the interest of public safety and will encourage continued collaboration between law enforcement and immigrant communities.

850 BRYANT STREET, THIRD FLOOR • SAN FRANCISCO, CALIFORNIA 94103
RECEPTION: (415) 553-1752 • FACSIMILE: (415) 553-9054

These victims have done their part by collaborating with law enforcement, granting inadmissibility waivers will allow them the immigration status that they deserve.

Sincerely,

A handwritten signature in black ink, appearing to read "Kamala D. Harris". The signature is fluid and cursive, with a prominent initial "K" and a long, sweeping tail.

KAMALA D. HARRIS
District Attorney
City and County of San Francisco

7.c. San Francisco DA: Support for Robbery as Qualifying Criminal Activity (CA)

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



GEORGE GASCÓN
District Attorney

DIRECT DIAL: (415) 553-1741

May 8, 2014

US Citizenship and Immigration Services
Vermont Service Center
Humanitarian Division
75 Lower Weldon Street
St. Albans, VT 05479

Dear Immigration Officer:

I am writing to urge U.S. Citizenship and Immigration Services (USCIS) to recognize robbery pursuant to California Penal Code (CPC) § 211 as felonious assault. Our office has certified victim helpfulness on Form I-918 Supplement B for dozens of robbery victims because it is a felonious assault and because the city of San Francisco benefits when victims are empowered to report this violent street crime.

The U Visa Interim Regulations published in the Federal Register on September 17, 2007 explain that the list of U Visa qualifying crimes "...represents the myriad types of behavior that can constitute domestic violence, sexual abuse, or trafficking, or are ***crimes of which vulnerable immigrants are often targeted as victims.***" Robbery under California law is a felony crime of violence that is frequently targeted at undocumented immigrants because perpetrators recognize that they fear law enforcement. A majority of 237 police chiefs surveyed by Arizona State University in 2008 stated that undocumented immigrants are more likely to be victims of robbery (cited in "The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Journal of Public Administration Research and Theory, Inc., October 24, 2012).

Robbery is a serious crime of violence. (See U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.) Individuals who commit robberies pose a violent threat to the entire community, which is why, unlike mere property crimes, robbery is a felony. The determination of whether a particular criminal incident is such a threat to public safety, and therefore a felony robbery, is made by the police officers on the scene who investigate that crime. If an officer determines that a crime did not involve immediate threat of injury, she or he will not classify that crime as a felony robbery. Our office respects these officers' individual determinations of which crimes are serious crimes of violence because these are the same officers we entrust to protect victims in the City and County of San Francisco.

My office certifies victim helpfulness on Form I-918 Supplement B for the crimes that trained San Francisco Police Department officers determine are serious violent crimes, including California Penal Code §211, felony robbery. I am confident that as a result of our U Visa

850 BRYANT STREET, THIRD FLOOR · SAN FRANCISCO, CALIFORNIA 94103
RECEPTION: (415) 553-1741 · FACSIMILE: (415) 553-1737

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

certification program, undocumented immigrant victims of these crimes have increased both their reporting and cooperation in the investigation and prosecution of these crimes. We urge USCIS to take our experience into account in determining that California Penal Code §211 is qualifying criminal activity pursuant to INA §101(a) (15) (U).

Sincerely,


George Gascon
DISTRICT ATTORNEY

9. Denver District Attorney's Policy (CO)

In Denver, when a claimant seeks a U-Visa Form I918-B ("Form"), the application will be directed to the Victim Advocate Office of the Denver Police Department. If the case was investigated by the Denver Police Department, that office will review the application to determine whether it believes the claimant cooperated with in the initial investigation and is otherwise appropriate for the issuing of a Form. The police department's review addresses only the issue of cooperation in the initial investigation. If the police department's representative determines the crime was one of the predicate crimes established by Federal law, the claimant is an appropriate candidate for a Form *and* the claimant provided sufficient cooperation and assistance during the initial investigation, he may issue a Form. If he does so in a case that was later filed by our office, I will conduct a separate review of the prosecution file to determine whether the cooperation continued through the pendency of the prosecution and whether there were circumstances which militate against the issuance of a Form. If I determine such adverse circumstances exist, I will send a letter to the Federal authorities documenting the nature and extent our concerns and opposing the issuance of a Form.

S. Lamar Sims
Senior Chief Deputy District Attorney
Office of the Denver District Attorney.

10.a. New York City Administration for Child Services Policy (NY)

NEW YORK CITY ADMINISTRATION FOR CHILDREN'S SERVICES

GUIDELINES FOR REQUESTING A U NONIMMIGRANT STATUS CERTIFICATION

I. Introduction

These guidelines describe the process for requesting a **U Nonimmigrant Status Certification** (Form I-918 Supplement B, hereinafter referred to as "I-918B") from the New York City Administration for Children's Services ("ACS").

U Nonimmigrant Status, also commonly referred to as a "U Visa," is a temporary immigration classification that was created by Congress with the passage of the Victims of Trafficking and Violence Protection Act of 2000. In order to be eligible for U Nonimmigrant Status, a person must demonstrate that he or she:

- is the victim of qualifying criminal activity;
- has suffered substantial physical or mental abuse as a result of having been the victim of criminal activity;
- has information about the criminal activity; and
- has been, is being, or is likely to be helpful with the investigation or prosecution of the crime.¹

In creating U Nonimmigrant Status, Congress recognized that undocumented crime victims – in other words, those without legal immigration status in the United States – may hesitate to contact law enforcement or child protective agencies out of fear that their lack of legal status may make them vulnerable to deportation. The purpose of U Nonimmigrant Status is to provide a pathway to legal immigration status for crime victims who come forward and assist law enforcement or child protective agencies with the detection, investigation, and prosecution of certain serious crimes, as this assistance is of critical importance to public safety as a whole.

In the context of child protective agencies, U Nonimmigrant Status is intended to strengthen an agency's ability to effectively investigate and pursue civil prosecution of child welfare cases involving undocumented children or family members, as well as protect undocumented victims of qualifying crimes – including child abuse, domestic violence, sexual assault, and certain other crimes – who assist with the agency's child protective investigation and prosecution.

¹ 8 I.N.A. § 101(a)(15)(U) [8 U.S.C. § 1101(a)(15)(U)].

In order to obtain U Nonimmigrant Status, an undocumented individual must submit an application package to the United States Citizenship and Immigration Services ("USCIS"), a federal agency within the U.S. Department of Homeland Security. The application package must include an I-918B signed by an approved Certifying Agency. Pursuant to federal immigration regulations, the New York City Administration for Children's Services qualifies as a Certifying Agency, and certain designated ACS staff members may sign I-918B forms.²³ **The signed I-918B serves as a statement by ACS that the applicant was the victim of a qualifying criminal activity, possesses information about a qualifying criminal activity, and has been, is being, or is likely to be helpful to ACS in the detection, investigation, or prosecution of a qualifying criminal activity.** A signed I-918B does not automatically grant an undocumented crime victim U Nonimmigrant Status – that determination is made by USCIS based on the individual's full application package.

II. Process for Requesting a U Nonimmigrant Status Certification from ACS

Requests for U Nonimmigrant Status Certification should be submitted by the applicant's immigration legal representative via mail to⁴:

Colleen A. Duffy, Esq.
Immigrant Services Coordinator
NYC Administration for Children's Services
150 William Street, FIRST FLOOR
New York, NY 10038-2603

In addition to submitting the full request package (described below) by mail, the applicant's immigration legal representative should if possible submit a **fillable PDF version of the applicant's I-918B**, completed as much as possible, to Colleen A. Duffy via email at colleen.duffy@dfa.state.ny.us. The cover letter and supporting documents do not need to be re-submitted by email.

Upon receiving a request for a U visa certification, ACS will verify that the applicant was the victim of a qualifying criminal activity, possesses information about a qualifying criminal activity, and has been, is being, or is likely to be helpful to ACS in the detection, investigation, or prosecution of a qualifying criminal activity.

² 8 § C.F.R. 214.14(a)(2).

³ Letter signed by Commissioner Gladys Carrión, Esq., of the New York City Administration for Children's Services, designating certain agency staff to sign I-918 Supplement B, U Nonimmigrant Status forms (April 1, 2014).

⁴ Alternate ACS contacts for U Nonimmigrant Status issues are Harry Gelb and Ray Kimmelman.

Components of the Request

1. Cover letter containing:
 - a. name(s) and date(s) of birth for child(ren) involved in the case;
 - b. name, date of birth, and country of origin for the applicant/victim;
 - c. name and date of birth for the perpetrator of the qualifying crime;
 - d. ACS case number(s) and summary of the child protective case(s) (please list **all** known ACS cases in which the applicant is or has been involved); and
 - e. summary of the applicant's eligibility for a U Nonimmigrant Status Certification (that the applicant was the victim of a qualifying criminal activity, possesses information about a qualifying criminal activity, and has been, is being, or is likely to be helpful to ACS in the detection, investigation, or prosecution of a qualifying criminal activity).
2. Form I-918 Supplement B, U Nonimmigrant Status Certification, completed as much as possible by the applicant's representative.
3. Supporting documentation from ACS records establishing the applicant's eligibility for a U Nonimmigrant Status Certification (that the applicant was the victim of a qualifying criminal activity, possesses information about a qualifying criminal activity, and has been, is being, or is likely to be helpful to ACS in the detection, investigation, or prosecution of a qualifying criminal activity). **The portions of the records that relate to the request must be highlighted.**

Obtaining Client Records from ACS

Requests for an applicant's ACS records may be submitted by the applicant's immigration legal representative via FAX to:

ACS RECORDS ACCESS OFFICER
Fax (212) 341-0726

The records request must contain both an attorney's cover letter and the applicant's notarized records request (stating with specificity the records sought). Records may not be requested from the ACS Records Access Officer via email.

In an emergency situation where the applicant must submit the U Nonimmigrant Status application to USCIS in a very short time frame, please contact Colleen A. Duffy, ACS Immigrant Services Coordinator, for assistance at colleen.duffy@dfa.state.ny.us or (917) 551-7961. This exception to the above guidelines is intended only for extremely urgent situations in which there is not sufficient time to request records from the ACS Records Access Officer.

Qualifying Criminal Activity

- | | | |
|--------------------------------------|--------------------------|--|
| • Abduction | • Kidnapping | • Trafficking |
| • Abusive Sexual Contact | • Manslaughter | • Witness Tampering |
| • Blackmail | • Murder | • Unlawful Criminal Restraint |
| • Domestic Violence | • Obstruction of Justice | • Other Related Crimes
(includes any similar activity where the elements of the crime are substantially similar; also includes attempt, conspiracy, or solicitation to commit any of the above or other related crimes) |
| • Extortion | • Peonage | |
| • False Imprisonment | • Perjury | |
| • Felonious Assault | • Prostitution | |
| • Female Genital Mutilation | • Rape | |
| • Fraud in Foreign Labor Contracting | • Sexual Assault | |
| • Being Held Hostage | • Sexual Exploitation | |
| • Incest | • Slave Trade | |
| • Involuntary Servitude | • Stalking | |
| | • Torture | |

As long as a person is the victim of a qualifying criminal activity, he or she may be eligible for a U visa, even if that criminal activity is not the subject of the child protective case. For example, if during a child protective case ACS determines that a child's parent is the victim of domestic violence, and that parent assists ACS by cooperating with the child protective case, ACS may complete an I-918B based on the qualifying crime of domestic violence.

Indirect Victims

Pursuant to guidance from the U.S. Department of Homeland Security, a non-citizen parent may apply to be recognized as an "indirect victim" if:

- the principal victim is a child under 21 and is incompetent or incapacitated to assist ACS with the child protective case;
- the parent possesses information about the crime committed against the child; and
- the parent assists ACS in the detection, investigation, or prosecution of a qualifying criminal activity.⁵

A non-citizen parent may qualify as an "indirect victim" regardless of whether the child is a U.S. citizen or non-citizen.

III. Additional Material

Letter signed by Commissioner Gladys Carrión, Esq., of the New York City Administration for Children's Services, designating certain agency staff to sign I-918 Supplement B, U Nonimmigrant Status forms (April 1, 2014).

⁵ U.S. DEPT. OF HOMELAND SECURITY, U VISA LAW ENFORCEMENT CERTIFICATION RESOURCE GUIDE 13-14, http://www.dhs.gov/xlibrary/assets/dhs_u_vis_a_certification_guide.pdf.

**** Addendum to New York City Administration for Child Services policy**



Gladys Carrión, Esq.
Commissioner

150 William Street
18th Floor
New York, NY 10038

212-341-0903 (tel)
212-341-0916 (fax)

April 1, 2014

Violence Against Women Act (VAWA) Unit
Vermont Service Center
U.S. Citizenship and Immigration Services
75 Lower Welden Street
St. Albans, VT 05479

To Whom It May Concern:

I am the Commissioner of the New York City Administration for Children's Services, a certifying agency, as such term is defined at 8 C.F.R. § 214.14(a)(2). In this capacity, I am the head of the agency charged with conducting investigations of alleged child abuse and neglect and overseeing the foster care system in New York City.

Pursuant to 8 C.F.R. § 214.14(a) and 8 C.F.R. § 214.14(c)(2)(i), I hereby specifically designate the following individuals to sign I-918 Supplement B, U Nonimmigrant Status Certification forms:

Ray Kimmelman or his designee
Harry Gelb
Colleen A. Duffy

This specific designation shall remain in force until revoked in writing. The previous specific designation, issued by former Commissioner Ronald E. Richter on August 7, 2013, is hereby revoked.

Sincerely,

A handwritten signature in black ink that reads "Gladys Carrión, Esq." in a cursive script.

Gladys Carrión, Esq.
Commissioner

11. Multnomah County District Attorney's Policy (OR)

MULTNOMAH COUNTY DISTRICT ATTORNEY'S OFFICE U VISA CERTIFICATION PROTOCOL (2013)

1. Prior to sending a U VISA request to the Multnomah County District Attorney's Office, the petitioner, or petitioner's counsel will try to obtain as much of the following information as possible:

- Full names and spellings of the victim, perpetrator and any know aliases
- Dates of birth for the victim and the perpetrator
- Address where incident took place
- Approximate date when incident took place
- District Attorney case number and/or Court case number
- Police Agency and Report Number

For assistance gathering DA case information, the petitioner, or petitioner's counsel may contact Helen O'Brien.

2. If it seems that the petitioner may meet the U Visa requirements of a qualifying criminal activity and cooperation with law enforcement, the petitioner, or petitioner's counsel will send a cover letter to the Multnomah county District Attorney's Office attention to Helen O'Brien.

The cover letter needs to include:

- The District Attorney case number and/or Court case number of the qualifying criminal activity.
- A formal request for U Visa Certification.
- A description of how the petitioner (alien victim) meets the eligibility requirements of a U Visa Certification from the Multnomah County District Attorney's Office to include but not limited to:
 - Explain why the petitioner believes that they qualify as an "alien victim."
 - In cases where the "alien victim" is under the age of 21, or is incapacitated or incompetent, please submit evidence of the petitioners (family members) qualifying relationship to the "alien victim" and supporting evidence establishing the age, incapacity, or incompetence of the "alien victim."
 - If your petition involves the "next friend" provision of 8 CFR 214.14(a)(7) then please provide specific information relating to the lawsuit he or she (the "next friend") appeared on to act for the benefit of the "alien victim" who is under 16 or who is incapacitated or incompetent.

- If the criminal activity is not specifically enumerated in 8 U.S.C. §1101(a)(15)(U)(i) then explain why it is “qualifying criminal activity,” understanding that the activity must be substantially similar to those enumerated qualifying criminal activities.
- If the investigation and/or prosecution is not actually occurring at the time of the petition then why was the petition delayed.
- Explain why the “alien victim” believes that they have suffered substantial mental or physical abuse as a result of having been a victim of qualifying criminal activity.
- Explain how the “alien victim” engaged in ongoing assistance to government officials in the investigation and prosecution of the qualifying criminal activity. How has the “alien victim” been helpful, is currently being helpful or will likely be helpful to the investigation and/or prosecution in the future?
- What relationship, if known, exists between the “alien victim” and perpetrator of the qualifying criminal activity?

3. As needed by the Multnomah District Attorneys Office, the petitioner, or petitioner’s counsel will request and supply to this office copies of:

- Police report (from the appropriate police agency)
- Charging document
- Disposition/Judgment and Sentence
- Other documentation as requested

Whether these documents are available may depend on the current status of the case. If the petitioner or, petitioner’s counsel has difficulty obtaining these documents they may contact Helen O’Brien for possible assistance.

If the District Attorney’s file has been destroyed and the police report is unavailable the District Attorney may decline to certify due to lack of information on which to base a certification of cooperation.

4. If a petitioner requests a U Visa Certification while the criminal case is still pending prosecution, petitioner or petitioner’s counsel will provide the Multnomah County District Attorney’s Office with current address and telephone number for the petitioner to ensure continued contact and cooperation with the District Attorney’s Office. The prosecuting attorney will decide whether the Multnomah County District Attorney’s Office considers a U Visa Certification request while a case is pending prosecution.

Please be aware that if a petitioner requests a U Visa Certification while a criminal case is still pending prosecution all information petitioner submits, including the letter of request, will be discovered to the defense per ORS 135.815.

5. If a petitioner allows a U Visa Certification previously signed by the Multnomah County District Attorney's Office to expire the petitioner must submit the original, signed certification with the request for a new signature. The District Attorney may add his signature to that original document.

6. If a petitioner is applying for adjustment of status and is requesting a new certification from the Multnomah County District Attorney's Office the petitioner must submit a copy of the original signed U Visa Certification. If appropriate, the District Attorney will provide a letter re-certifying the helpfulness of your client in regards to the criminal case mentioned in the original certification.

**Requests and Certifications are discoverable.

Whenever possible all U Visa certification requests and supporting documentation shall be provided in an electronic format via email.

Contact information for Helen O'Brien:

503-988-5451

helen.obrien@mcdca.us

Multnomah County District Attorney's Office

1021 SW 4th Avenue, Room 804

Portland Oregon 97204

12. Providence Police Department Policy (RI)

Dec. 28. 2011 9:51AM

No. 1403 P. 2

PROVIDENCE POLICE DEPARTMENT
HEADQUARTERS
COMMANDER HUGH T. CLEMENTS, JR.
ACTING CHIEF OF POLICE

TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	510.01	12/12/2011	12/12/2011
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
U-Visa Certification Requests		N/A	
REFERENCE		RE-EVALUATION DATE	
CALEA 55.2.2		12/12/2014	
SUBJECT AREA		DISTRIBUTION	
Community Relations & Services		All Personnel	

PURPOSE

The purpose of this policy is to establish guidelines and procedures pertaining to the processing of all U-Visa Certification requests received by the Providence Police Department.

POLICY

It is the policy of the Providence Police Department to constantly seek new ways of reducing crime and the fear of crime in our city so as to create a safer community. As declared in our Mission Statement, we remain dedicated to both protecting human rights and apprehending criminals in a manner that is consistent with the law. To fulfill these ends, we strive to incorporate the latest tools available into our ever-growing arsenal of crime-fighting techniques.

DISCUSSION

Lawmakers have recognized that a victim's cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of crimes. It is virtually impossible for officials who work in law enforcement, justice systems, or with other government enforcement agencies to punish and hold accountable perpetrators of crimes against non-citizens if criminals can avoid prosecution because their victims are far less likely to come forward to report crimes or to fully cooperate and assist in criminal investigations due to the fear of being deported. Thus, Congress has provided a specific avenue through which immigrant victims of "qualifying criminal activity" and/or their qualifying family members, who cooperate with law enforcement, can obtain

temporary lawful immigration status and protection against deportation – The U-Visa Certification Program.

The list of "qualifying criminal activity", as defined in Section 8 of United States Code 1184 (p), includes the commission, attempt to commit, conspiracy to commit, or solicitation to commit any of the following crimes or any similar activity:

Abduction	Incest	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking
Felonious Assault	Peonage	Perjury
Unlawful Criminal Restraint	Female Genital Mutilation	Witness Tampering
Being Held Hostage	Prostitution	

Furthermore, the law requires that a person who is eligible for U-Visa certification must:

1. have suffered substantial physical or mental abuse as the result of having been a victim of a qualifying criminal activity;
2. possess information concerning such criminal activity;
3. have been helpful, be helpful, or be likely to be helpful in the investigation or prosecution of such criminal activity; and
4. have been the victim of a qualifying criminal activity that occurred in the United States or violated the laws of the United States.

PROCEDURE

- I. A supervisory officer within the Department's Administrative Division will be designated as the reviewing officer for all U-Visa certification requests.
- II. When processing a Form I-918, Supplement B (a request for U-Visa certification), the reviewing officer will assess the following criteria:
 - A. The non-citizen victim or qualifying family member was or is:
 1. A victim of a qualifying criminal activity that took place in the United States or its territories or occurred outside the United States but violates U.S. extraterritorial law;
 2. The spouse or under-21-year-old child of a victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated; or
 3. The parents or unmarried under-18-year-old siblings of an under-21-year-old victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated.
 - B. The non-citizen victim has been, is being, or is likely to be helpful to the investigation. This will be ascertained and verified when:
 1. A determination is made that there is a law enforcement and/or prosecutorial need to have the presence of the victim;

2. The victim possesses information about a qualifying criminal activity; and
 3. The victim demonstrates cooperation during the detection and investigation of that criminal activity, even if the investigation is not completed.
- C. After consulting with the United States District Attorney's Office for the District of Rhode Island, the following additional criteria will be assessed during the processing of a U-Visa certification request:
1. The victim having suffered substantial physical or mental abuse as the result of a qualifying criminal activity;
 2. The timeliness of the request for U-Visa certification relative to the commission of the qualifying criminal offense;
 3. The actual or likelihood of apprehension and prosecution of the perpetrator;
 4. The criminal history of the applicant making the certification request.
- D. The Providence Police Department may elect to include additional criteria, including consultation with other governmental agencies, as part of the assessment of any U-Visa certification request.
1. A consultation with the RI Office of the Attorney General shall become a part of the assessment criteria for any U-Visa certification requests pertaining to criminal cases that have been submitted for prosecution.

- III. Subsequent to the assessment of all criteria, the U-Visa certification request will be forwarded to the Chief of Police with a recommendation for or against certification.
- A. It should be noted that a law enforcement agency is not required to certify any U-Visa certification requests.

NOTE: This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

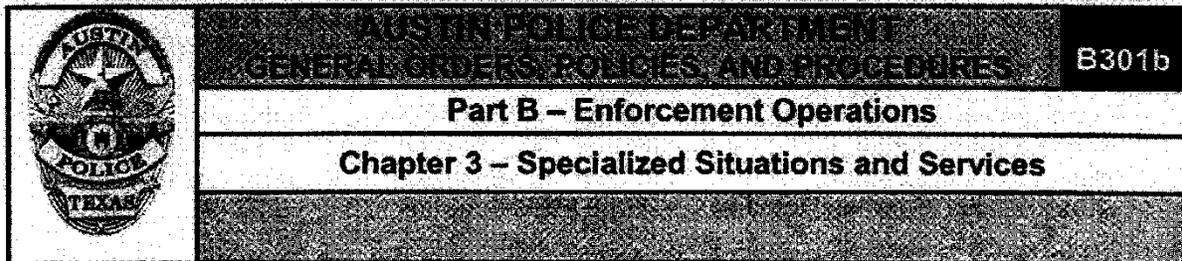
APPROVED:

APPROVED:

**STEVEN M. PARÉ
COMMISSIONER
DEPARTMENT OF PUBLIC SAFETY**

**HUGH T. CLEMENTS, JR.
COMMANDER
ACTING CHIEF OF POLICE**

13. Austin Police Department Policy (TX)



B301b – U Nonimmigrant Status Certifications

APD strives to provide the highest level of public safety to all persons residing in, or visiting the City of Austin, regardless of Immigration status. APD will consider issuing U Nonimmigrant Status Certifications (Certification); on a case-by-case basis, to the immigrant community who are crime victims to report such crimes to police and to assist police in the detection, investigation and prosecution of such crimes.

.01 Statement of Certification Intent

APD's intent is to consider issuance of Certifications to those individuals who prove willing to assist APD in furtherance of its law enforcement purposes of detecting, investigating and prosecuting crimes. APD's decision to provide an applicant with a Certification is entirely discretionary. A victim who receives a Certification has an ongoing responsibility to assist APD in the investigation or prosecution of crime(s) listed on their Form 1-918, Supplement B.

.02 Eligibility for U Nonimmigrant Status

To be eligible for Certification a person must have been a victim of a qualifying criminal activity, must know details concerning the qualifying criminal activity, must have been helpful, is being helpful, or is likely to be helpful to APD in investigation or prosecution of the qualifying criminal activity upon which their application is based; and since the initiation of cooperation with APD, they have not refused or failed to provide information or assistance reasonably requested.

.03 Crime Victim Means

For the purposes of Certification a victim is a person who directly suffered physical, emotional or psychological harm as a result of having been a victim of qualifying criminal activity, or indirect victims of the criminal activity in the case of deceased victims of murder and manslaughter and victims of violent criminal activity who are incapacitated or incompetent.

.04 Qualifying Crime or Criminal Activity Means

For the purposes of Certification, qualifying criminal activity includes, but is not limited to one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: Rape, Torture, Trafficking, Incest, Domestic Violence, Sexual Assault, Abusive Sexual Contact, Prostitution, Sexual Exploitation, Female Genital Mutilation, Being Held Hostage, Peonage, Involuntary Servitude, Slave Trade, Kidnapping, Abduction, Unlawful Criminal Restraint, False Imprisonment, Blackmail, Extortion, Manslaughter, Murder, Felonious Assault, Witness Tampering, Obstruction of Justice, Perjury, or Attempted Conspiracy or Solicitation to commit any of the above mentioned crimes. The term "any similar activities" refers to criminal offenses in which

the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.

.05 Posses Information about the Qualifying Criminal Activities

There must be evidence demonstrating that the victim possesses credible and reliable information establishing that they have knowledge of the details concerning the qualifying criminal activity of which they are a victim. The victim must demonstrate that they have knowledge of the criminal activity that would assist in the investigation or prosecution of the crime upon which their petition is based. The victim must possess specific facts regarding the criminal activity leading a certifying official to determine that the victim has, is or is likely to provide assistance in the investigation or prosecution of the qualifying criminal activity.

DOCUMENT TITLE: Nonimmigrant Status Certifications DOCUMENT #: B301b

.06 Helpfulness to the Criminal Investigation Means

In order for a Certification to be considered, a crime victim has been, is being, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity. A victim who receives Certification has an ongoing responsibility to assist APD in the investigation or prosecution of any crime(s) listed on their Form 1-918, Supplement B.

.07 Notification of Victim's Refusal to Assist

If the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity, even after certification has been granted and the 1-918 Supplement 8 has been submitted to the U.S. Citizenship & Immigration Service (USCIS), then the authorized investigation unit Sergeant shall notify the USCIS in writing of said refusal to assist.

.08 Referrals of Applicant to Other Certifying Agencies

If APD determines it will not issue Certification in a particular case, it may refer the requestor to Federal, State or local law enforcement; Prosecutor; Federal or State judge; Department of Family and Protective Services; EEOC; Department of Labor.

.09 Additional Information

A Requests for Certification must be received in writing.

B. All requests for Certification should be routed by case type as follows:

1. Domestic Violence/Stalking/DVERT case to the Sergeant over the Domestic Violence and or DVERT Units.
2. Victim Services will coordinate all other case types with the appropriate Sergeant from the Violent Crime units or Decentralized Area units.

- C. Sergeants should execute the certification as soon as possible, but under no circumstances more than 30 days from the date of receipt of the request.
- D. AU written requests and their dispositions must be stored electronically in the
Inspections Unit in accordance with applicable record retention procedures.
- E. The I-918 Supplement B, U Nonimmigrant Status Certification, and associated instructions are available in the "Approved APD Forms" folder of the Public Drive.

.10 Certifying Official

The Sergeants over Violent Crime units and the Decentralized Area Investigative units are designated by the Chief of Police to issue Certifications on behalf of the APD.

14. Dallas Police Department Policy (TX)

Dallas Police Department **U Visa Nonimmigrant Status Certification Policy**

Congress created the "U" nonimmigrant classification with the passage of the Victims of Trafficking and Violence Protection Act. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while at the same time, offering protection to victims of such crimes.

All applicant individuals must meet the following four statutory eligibility requirements and have:

- (1) ~~suffered~~ substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity, and
- (2) ~~valid~~ information concerning the criminal activity, and
- (3) ~~assisted~~ or are continuing to assist in providing useful information to the investigation or prosecution of the crime, and
- (4) ~~been~~ a victim of a criminal activity that violated the laws of the United States and occurred within the jurisdiction of a certifying agency.

Qualifying criminal activity is defined by statute as an activity involving offenses ranging from murder, rape, robbery, felonious assault, sexual exploitation, extortion, human trafficking, torture, abduction, false imprisonment, witness tampering, obstruction of justice, etc. This list is not all inclusive, but represents types of criminal activity which target vulnerable immigrants.

The victim must submit a U Nonimmigrant Status Certification (Form I-918, Supplement B) that is certified by a law enforcement agency to the U.S. Citizenship and Immigration Services.

The Dallas Police Department will act as a certifying agency for a petitioner of an I-918 Supplement B, U Nonimmigrant Status Certification if the following criteria are met:

1. The victim must meet all of the statutory eligibility requirements as outlined in the Department of Homeland Security Federal Register/Vol. 72, No.179/2007-09-17/Rules and Regulations.
2. The petitioner must be the victim of a felony grade offense reported to the Dallas Police Department.
3. The offense must still be under investigation by the Dallas Police Department.
4. The petitioner must make application within one year of the criminal offense.
5. The petitioner must submit written documentation from a certified medical facility verifying that the individual suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity.

6. The petitioner must have valid information that will assist detectives in identifying, or attempting to identify the perpetrator of the offense.
7. The petitioner must demonstrate a willingness to participate in the investigation and prosecution process.
8. The Dallas Police Department will act as a certifying agency when all of the above requirements have been met and it is determined to be in the best interest of justice.
9. Once a case has been filed with a District Attorney's Office for any county within the City of Dallas, the Dallas Police Department may refer a U-Visa applicant to the certifying official for the District Attorney's Office where the case was filed.
10. The Dallas Police Department will not certify those indirect victims of offenses with deceased victims resulting from murder or manslaughter, or offenses with a victim younger than 21 years of age that has become incompetent or incapacitated as a direct result of the offense committed against the victim, where the applicant (indirect) victim was not a witness to the offense, and/or is unable to provide assistance to the investigation that will assist with identifying and prosecuting involved suspects.
11. All requests for recertification or re-examination of previously reviewed U-Visa applications submitted to the Dallas Police Department will be denied. Decisions made by previous Designated Certifying Officials for the Dallas Police Department will remain in effect and will not be re-examined by subsequent Designated Certifying Officials.

The Victims Services Coordinator/Advocates in the Crimes Against Persons Division - Investigations Bureau will be the Agency Point of Contact for all I-918, Supplement B, U Nonimmigrant Status Certifications sent to the Dallas Police Department. The Designated Certifying Official is a Lieutenant of Police assigned to the Crimes Against Persons Division. Documentation identifying current and prior Designated Certifying Officials will be maintained by the Dallas Police Department and the Fraud Detection Unit within the U.S. Citizenship and Immigration Services. All applications and decisions will be recorded and maintained by the Victims Services Coordinator/Advocates. Certification decisions will be based upon an investigation of the facts submitted.

Law enforcement certification, by itself, does not provide legal immigration status for the applicant. The U.S. Citizenship and Immigration Services will make the final determination as to whether an individual will be granted legal immigration status.